



Billing Code: 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 131113952-6673-01]

RIN 0648-BD78

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
Snapper-Grouper Fishery off the Southern Atlantic States; Regulatory
Amendment 16**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Regulatory Amendment 16 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) (Regulatory Amendment 16), as prepared and submitted by the South Atlantic Fishery Management Council (Council). If implemented, this proposed rule would revise the current seasonal prohibition on the use of black sea bass pot gear in the South Atlantic and add additional gear marking requirements for black sea bass pot gear. The purpose of this proposed rule is to reduce the adverse socioeconomic impacts from the current seasonal black sea bass pot gear prohibition while continuing to protect Endangered Species

Act (ESA) listed whales in the South Atlantic. This proposed rule would also help better identify black sea bass pot gear in the South Atlantic.

DATES: Written comments must be received on or before *[insert date 30 days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: You may submit comments on the proposed rule, identified by "NOAA-NMFS-2013-0165" by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0165*, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Nikhil Mehta, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted

voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of Regulatory Amendment 16, which includes an environmental impact statement (EIS), a Regulatory Flexibility Act (RFA) analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web site at https://sero.nmfs.noaa.gov/sustainable_fisheries/s_atl/sg/2013/reg_am16/index.html.

Comments regarding the burden-hour estimates, clarity of the instructions, or other aspects of the collection-of-information requirements contained in this proposed rule (see the Classification section of the preamble) may be submitted in writing to Adam Bailey, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; or the Office of Management and Budget (OMB), by email at OIRA_Submission@omb.eop.gov, or by fax to 202-395-5806.

FOR FURTHER INFORMATION CONTACT: Nikhil Mehta, telephone: 727-824-5305, e-mail: nikhil.mehta@noaa.gov.

SUPPLEMENTARY INFORMATION: Black sea bass is in the snapper-grouper fishery and is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and

Management Act (Magnuson-Stevens Act).

Background

On December 4, 2013, NMFS published a notice of intent to prepare a draft EIS for Regulatory Amendment 16 and requested public comment (78 FR 72968). On October 23, 2015, the notice of availability for the draft EIS was published and public comment was also requested (80 FR 64409). The notice of availability for the final EIS for Regulatory Amendment 16 published on July 1, 2016 (81 FR 43198).

The black sea bass stock in the South Atlantic was most recently assessed through the Southeast Data, Assessment, and Review (SEDAR) stock assessment process in 2013 (SEDAR 25 Update). The SEDAR 25 Update determined that the black sea bass stock in the South Atlantic is not undergoing overfishing and is not overfished. The SEDAR 25 Update indicated that the black sea bass commercial and recreational sector annual catch limits (ACLs) could be increased without jeopardizing the health of the population, and as a result, the black sea bass commercial and recreational ACLs were increased through the final rule to implement Regulatory Amendment 19 to the FMP (78 FR 58249, September 23, 2013).

Additionally, Regulatory Amendment 19 established an annual prohibition on the use of black sea bass pots from November 1 through April 30. During this closure, no person is allowed to harvest or

possess black sea bass in or from the South Atlantic exclusive economic zone (EEZ) either with sea bass pots or from a vessel with sea bass pots on board. In addition, sea bass pots must be removed from the water in the South Atlantic EEZ prior to November 1, and may not be on board a vessel in the South Atlantic EEZ during this seasonal closure. The black sea bass pot seasonal prohibition became effective on October 23, 2013.

Through Regulatory Amendment 19, the seasonal sea bass pot prohibition was established as a precautionary measure to prevent interactions between black sea bass pot gear and ESA-listed whales during periods of large whale migrations and during the right whale calving season off the U.S. southeastern coast. The large whale migration period and the right whale calving season in the South Atlantic extends from approximately November 1 through April 30, each year. Since 2010, black sea bass harvest levels have reached the commercial quota, thereby triggering accountability measures (AMs) to close the commercial sector. In recent years, these in-season commercial closures have occurred prior to November 1, the beginning of the right whale calving season, therefore, Council and NMFS actions to prevent black sea bass pot gear from being in the water during periods of higher whale concentrations had been unnecessary to restrict interactions between black sea bass pot fishers and

ESA-listed whales. However, NMFS determined that the increase in the black sea bass commercial ACL implemented through Regulatory Amendment 19 could extend the commercial black sea bass fishing season beyond November 1, and into a time period when a higher concentration of endangered whales are known to migrate through black sea bass fishing grounds.

Management Measures Contained in this Proposed Rule

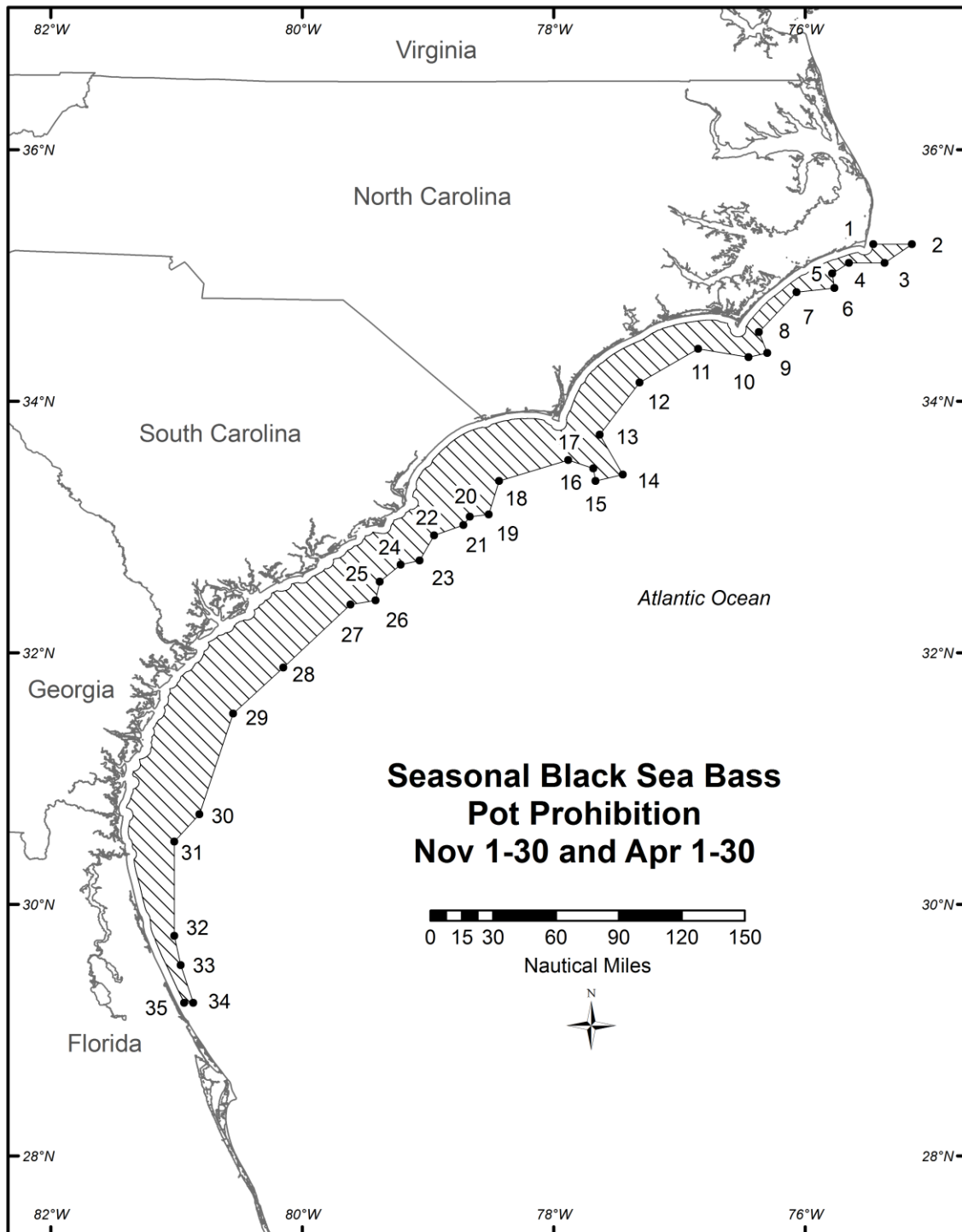
This proposed rule would implement modifications to the current black sea bass pot seasonal closure. This proposed rule would also modify the buoy line rope marking requirements for black sea bass pots.

Black Sea Bass Pot Gear Seasonal Prohibition

As established through Regulatory Amendment 19, black sea bass pot gear is prohibited in the South Atlantic EEZ annually from November 1 through April 30. This proposed rule would retain the November 1 through April 30 prohibition on the use of black sea bass pots, but would modify the boundaries of the prohibition. This rule would revise the South Atlantic EEZ-wide seasonal closure to a closure of two temporal and spatial components. The first closure period would be for the months of November and April, and the second closure period would be for the months of December through March each year. The first closure period is illustrated by the Figure 1 below. During November and April, the eastern boundary of the sea bass pot closed area off

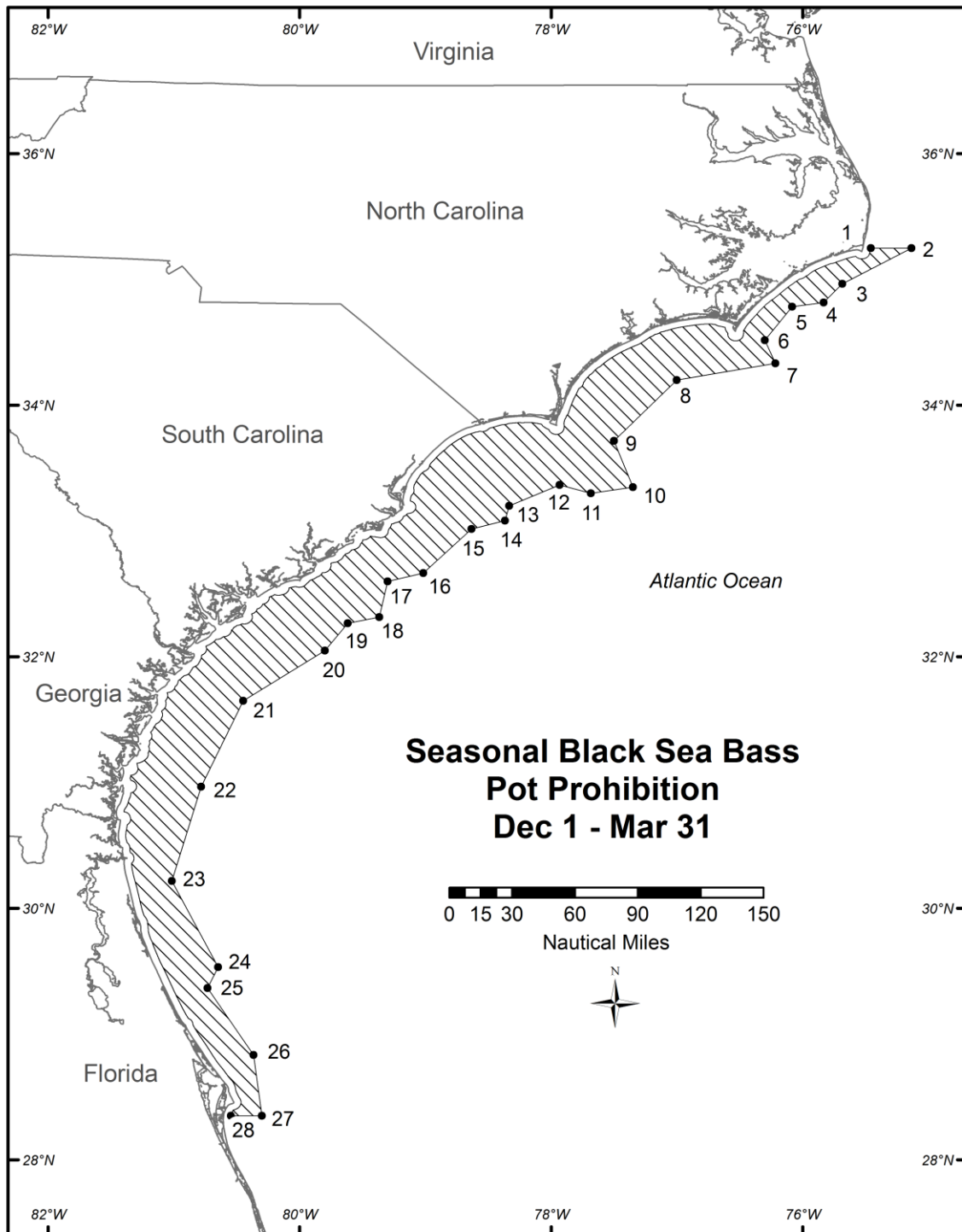
North and South Carolina is closer to shore than during the months of December through March.

Figure 1. November and April Black Sea Bass Pot Prohibition



During the second closure period from December through March each year, the sea bass pot closure area would be larger off the entire South Atlantic coast than it would be during November and April, particularly off Georgia and Florida. Waters off the coast of Georgia and Florida represent the primary right whale calving grounds in the South Atlantic EEZ. This bathymetric area is based on right whale sightings (all demographic segments) and sightings per unit of effort (proxy of density) by depth and captures 97 percent and 96 percent of right whale sightings off the North Carolina/South Carolina area, and Florida/Georgia area, respectively. The proposed sea bass pot prohibited area for December through March is illustrated in Figure 2 below.

Figure 2. December Through March Black Sea Bass Pot Prohibition



The Council has determined that reducing the size of the current black sea bass pot prohibition would continue to provide the necessary protection to ESA-listed whales in the South Atlantic. The Council based this conclusion on an analysis that simulated the potential black sea bass landings of black sea bass pot endorsement holders during a winter season and created overlays of the co-occurrence of the seasonal distribution of black sea bass pot gear and North Atlantic right whales as a proxy for the relative risk of right whale entanglements under each of the proposed alternatives in Regulatory Amendment 16. The findings of this analysis were recently published in the peer-reviewed journal, "Marine and Coastal Fisheries" by Farmer *et al.* (2016) which is available at the following Web site:

<http://dx.doi.org/10.1080/19425120.2016.1146181>.

As described in Regulatory Amendment 16, the alternatives for all of the proposed black sea bass pot closures were developed considering the following spatial, temporal, and environmental variables. Spatial variation in the distribution of right whales is influenced by local environmental variables such as water temperature, depth, and distance to shore. The closed areas proposed in this rule incorporate these environmental variables and spatial distribution patterns to minimize the risk of interactions of marine

mammals with black sea bass pot gear. During the months of November and April, the area proposed to be closed through this rule would prohibit black sea bass pots inshore of an area which represents 91 percent of historical right whale sightings off Florida and Georgia; and off North Carolina and South Carolina, the black sea bass pot prohibition would apply to Federal waters shallower than 25 m. During December through March, the area proposed to be closed through this rule would prohibit black sea bass pots shallower than 25 m off Florida and Georgia; and from the Georgia/South Carolina border to Cape Hatteras, North Carolina, the prohibition would apply to Federal waters that are shallower than 30 m in depth. This bathymetric area is based on right whale sightings by depth and captures 97 percent and 96 percent of right whale sightings off the North Carolina/South Carolina area, and Florida/Georgia area, respectively. NMFS is currently conducting an ESA section 7 consultation.

Additionally, the proposed closure areas listed in this rule are expected to minimize adverse socioeconomic effects of the current November through April black sea bass pot prohibition by increasing the area available to fish using black sea bass pots.

This proposed rule would also allow for vessel transit through the proposed black sea bass pot closed areas providing the black sea bass pot gear is appropriately stowed on the vessel. Transit would

be defined as non-stop progression through the closed area; fishing gear appropriately stowed means all black sea bass pot gear must be out of the water and on board the deck of the vessel. All buoys must either be disconnected from the gear or stowed within the sea bass pot. The disconnected buoys may remain on deck.

Gear Marking Requirements

Fish traps and pot buoy lines, including black sea bass pots, are currently required to have specific line marking requirements during certain times of the year and in the locations described in the Atlantic Large Whale Take Reduction Plan (ALWTRP) (see 50 CFR 229.32(b)). The ALWTRP includes at least three trap/pot areas where black sea bass pots may be fished. This includes the Offshore Trap/Pot Waters Area, Southern Nearshore Trap/Pot Waters Area, and the U.S. Southeast Restricted Area North.

Regulatory Amendment 16 would modify the current gear marking requirements under the FMP by requiring additional markings for black sea bass pot buoy lines. This proposed rule would require that an additional 12-inch (30.5 cm) wide purple band be added onto the buoy line at the end of, and directly adjacent to, each of the currently required 12-inch (30.5 cm) colored marks required through the ALWTRP described in 50 CFR 229.32(b). Within the Council's jurisdiction for managing black sea bass, the proposed additional black sea bass gear

marking requirements would be required to be in place in Federal waters from September 1 through May 31 in the Offshore Trap/Pot Waters Area and the Southern Nearshore Trap/Pot Waters Area, and from November 15 through May 31 in the Southeast U.S. Restricted Areas North. The Council's requirement that sea bass pot gear have additional gear-specific marking would help distinguish black sea bass pots from other types of trap and pot gear in the South Atlantic EEZ.

Classification

Pursuant to section 304(b) (1) (A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Regulatory Amendment 16, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an initial regulatory flexibility analysis (IRFA), as required by section 603 of the RFA, for this proposed rule. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, the objectives of, and legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A copy of the full analysis

is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows.

The Magnuson-Stevens Act provides the statutory basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting or record-keeping requirements are introduced by this proposed rule. However, the proposed rule would require that for each sea bass pot buoy line an additional 12-inch (30.5 cm) wide purple band be added at the end of, and directly adjacent to, each of the currently required 12-inch (30.5 cm) colored marks required under the ALWTRP discussed above. Similar to the current requirements under the ALWTRP, this marking requirement does not need an additional expertise on the part of fishermen. NMFS estimates that this requirement would cost each pot endorsement holder about an additional \$5 annually if surveyor's tape is used for line marking, or about an additional \$90 annually if paint is used instead. The estimated additional annual time burden associated with the proposed marking requirement is up to approximately 3.5 hours annually.

NMFS expects this proposed rule to directly affect federally permitted commercial fishermen fishing for black sea bass in the South Atlantic. For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR § 200.2). A business

primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide. The \$11 million standard became effective on July 1, 2016, and is to be used in place of the U.S. Small Business Administration's (SBA) current standards of \$20.5 million, \$5.5 million, and \$7.5 million for the finfish (NAICS 114111), shellfish (NAICS 114112), and other marine fishing (NAICS 114119) sectors of the U.S. commercial fishing industry in all NMFS rules subject to the RFA after July 1, 2016.

Pursuant to the RFA, and prior to July 1, 2016, an IRFA was developed for this regulatory action using SBA's size standards. NMFS has reviewed the analyses prepared for this regulatory action in light of the new size standard. All of the entities directly affected by this regulatory action are commercial fishing businesses and were considered small under the SBA's size standards, and they all would continue to be considered small under the new NMFS standard. Thus, NMFS has determined that the new size standard does not affect analyses prepared for this regulatory action.

As of December 31, 2014, there were 32 holders of the Federal black sea bass pot endorsement to the snapper-grouper commercial

permit. Since that time one endorsement holder has dropped out of the black sea bass pot component of the commercial sector, but the current analysis uses 32 endorsement holders because historical records of these 32 endorsement holders were used in Regulatory Amendment 16. Retaining the records of 32 endorsement holders is not expected to inflate the analytical results because only an average of 31 vessels fished for black sea bass using pots.

From the 2000/2001 through 2013/2014 fishing years, these endorsement holders used an average of 31 vessels fishing for black sea bass using pots. These vessels generated total combined revenues (2014 dollars) of \$732,717 from black sea bass, \$228,468 from other species jointly landed with black sea bass, and \$248,662 from all other species in trips where black sea bass was not caught. The average annual revenue per vessel from all species, including black sea bass, landed by these vessels was \$38,715 (2014 dollars). During the same time period, an average of 215 vessels using gear other than sea bass pots landed at least 1 lb (0.45 kg) of black sea bass. These vessels generated dockside total combined revenues (2014 dollars) of \$199,574 from black sea bass, \$3.838 million from other species jointly landed with black sea bass, and \$7.680 million from all other species in trips where black sea bass was not caught. The average annual revenue per vessel from all species, including black sea bass, landed by these

vessels was \$54,651 (2014 dollars). Vessels that caught and landed black sea bass may also operate in other fisheries, the revenues of which are not known and are not reflected in these totals. Based on revenue information, all commercial vessels directly affected by the proposed rule may be assumed to be small entities.

Because all entities expected to be directly affected by this proposed rule are assumed to be small entities, NMFS has determined that this proposed rule would affect a substantial number of small entities. However, the issue of disproportionate effects on small versus large entities does not arise in the present case.

The proposed rule would modify the November 1 through April 30 prohibition on the use of black sea bass pot gear in the South Atlantic by allowing black sea bass pot fishing at depths greater than approximately 25 m from November 1 through April 30 from approximately Cape Canaveral, Florida, to the Georgia/South Carolina border; at depths greater than approximately 25 m from November 1 through 30 and from April 1 through 30 off North and South Carolina; and, at depths greater than approximately 30 m from December 1 through March 31 off North and South Carolina. In addition, the proposed rule would require black sea bass pot endorsement holders to put three 12-inch (30.5 cm) purple markings on each sea bass pot buoy line adjacent to the already required colors on these lines under the ALWTRP. The marks are commonly

made with either paint or surveyor's tape. As described in the codified text, other materials may also be used for marking the line.

The proposed modification to the current prohibition on the use of black sea bass pot gear would have contrasting economic effects on the two major groups of participants in the commercial harvest of black sea bass. The proposed action would benefit those using pots for harvesting black sea bass, and given that the commercial ACL is predicted to be fully taken, benefits to users of other gear would decrease. The combined dockside revenues (2014 dollars) for all pot gear vessels are estimated to increase annually between \$113,964 and \$185,068 based on 2000-2013 average black sea bass price, or between \$163,606 and \$260,355 based on 2011-2013 average black sea bass price. Two price levels are used to provide some bounds on the range of revenue effects. The lower bound is based on the 2000-2013 average black sea bass price and the upper bound is based on the 2011-2013 average black sea bass price. In contrast, the combined dockside revenues (2014 dollars) for all non-pot gear vessels are estimated to decrease annually between \$68,323 and \$141,527 based on 2000-2013 average black sea bass price, or between \$116,650 and \$241,631 based on 2011-2013 the average black sea bass price. The net revenue change for all vessels combined would be between \$43,541 and \$46,367 based on 2000-2013 average price for black sea bass, or between \$43,889 and

\$46,553 based on 2010-2013 average price for black sea bass. Assuming that revenue increases for users of pot gear would be equally distributed among the 32 endorsement holders, revenues per pot endorsement holder would increase annually between \$3,561 and \$5,783, or between \$5,113 and \$8,136. However, revenue per vessel for the 215 users of non-pot gear would decrease between \$318 and \$658, or between \$543 and \$1,124. For vessels using pot gear, the expected revenue increases would be approximately 9 to 21 percent of their average annual revenue of \$38,715 per vessel. However, revenue losses to vessels using gear other than sea bass pots would be between 1 and 2 percent of their average annual revenue of \$54,651 per vessel. Therefore, on a per vessel basis, the revenue gains to the pot endorsement holders could potentially be substantial, whereas the revenue losses to the other gear users would be relatively small.

The proposed requirement on black sea bass pot endorsement holders to put three 12-inch (30.5 cm) purple markings on each pot buoy line adjacent to the already required colors under the ALWTRP would cost each endorsement holder about an additional \$5 annually if surveyor's tape is used, or about an additional \$90 annually if paint is used instead. This cost is relatively small.

The following discussion describes the alternatives that were not selected as preferred by the Council. In this section, the term

“overall revenues” refers to the sum of revenues from vessels using black sea bass pots and revenues from vessels using gear other than black sea bass pots.

Twelve alternatives, including the preferred alternative as described above, were considered for modifying the November 1 through April 30 prohibition on the use of black sea bass pot gear. The first alternative, the no action alternative, would maintain the current economic benefits to all participants in the fishery as well as provide the least likelihood of right whales getting entangled with black sea bass pot lines. However, this alternative would not address the need to reduce the adverse socioeconomic effects of the current prohibition on the use of black sea bass pot gear.

The second alternative would apply the black sea bass pot closure to the area currently designated as North Atlantic right whale critical habitat from November 15 through April 15. This alternative would provide slightly more increases in overall revenues to commercial vessels than the preferred alternative, but it would also pose the highest threat of right whale entanglement with pot buoy lines.

The third alternative would apply the black sea bass pot closure from approximately Ponce Inlet, Florida, to Cape Hatteras, North Carolina, annually from November 1 through April 30. Relative to the

preferred alternative, this alternative would result in higher overall revenue increases but lower protection to right whales from getting entangled with pot buoy lines.

The fourth alternative would apply the black sea bass pot closure from approximately Cape Canaveral, Florida, to Cape Hatteras, North Carolina, annually from November 1 through April 30. Although this alternative would provide increased protection to right whales from entanglement with pot buoy lines, it would result in smaller overall revenue increases than the preferred alternative.

The fifth alternative would apply the black sea bass pot closure from approximately Daytona Beach, Florida, to Cape Hatteras, North Carolina, annually from November 1 through April 30. Relative to the preferred alternative, this alternative would provide slightly more increases in overall revenues to commercial vessels but would provide less protection to right whales from entanglement with pot buoy lines.

The sixth alternative would apply the black sea bass pot closure from approximately Sebastian Inlet, Florida, to Cape Hatteras, North Carolina, annually from November 1 through April 30. Although this alternative would provide the second greatest protection in comparison with the alternatives in Regulatory Amendment 16 to right whales from entanglement with pot buoy lines, it would result in lower overall revenue increases than the preferred alternative.

The seventh alternative would apply the black sea bass pot closure from approximately the Altamaha River, Georgia, to Cape Hatteras, North Carolina, annually from November 1 through December 15 and March 15 through April 30; or annually from November 1 through December 15 and March 15 through April 30 for the area off North Carolina and South Carolina, and from November 15 through April 15 for the area off Georgia and Florida; or annually from February 15 through April 30 for the area off North Carolina and South Carolina, and from November 15 through April 15 for the area off Georgia and Florida. Relative to the preferred alternative, this alternative and its sub-alternatives would result in relatively higher overall revenue increases but would provide much reduced protection to right whales from entanglement with sea bass pot buoy lines.

The eighth alternative would apply the black sea bass pot closure from approximately Daytona Beach, Florida, to Cape Hatteras, North Carolina, annually from November 1 through April 15; or annually from November 1 through December 15 and February 15 through April 30 for the area off North Carolina and South Carolina, and from November 15 through April 15 for the area off Georgia and Florida. Relative to the preferred alternative, this alternative and its sub-alternatives would result in higher overall revenue increases but would afford a much reduced protection to right whales from entanglement with pot

buoy lines.

The ninth alternative would apply the black sea bass pot closure from approximately Daytona Beach, Florida, to Cape Hatteras, North Carolina, annually from November 1 through April 15; or annually from November 1 through December 15 and February 15 through April 30 for the area off North Carolina and South Carolina, and from November 15 through April 15 for the area off Georgia and Florida. Relative to the preferred alternative, this alternative and its sub-alternatives would result in higher overall revenue increases but would provide much reduced protection to right whales from entanglement with pot buoy lines.

The tenth alternative would apply the black sea bass pot closure from approximately the Georgia/South Carolina border, to Cape Hatteras, North Carolina, annually from November 1 through December 15, with the following provision: from February 15 through April 30, the black sea bass pot closure applies to waters inshore of points 1-28 listed in Table 2.1.9 of Regulatory Amendment 16, approximately the Georgia/South Carolina border, to Cape Hatteras, North Carolina; from December 16 through February 14, there would be no closure off of the Carolinas; from November 15 through April 15, the black sea bass pot closure applies to waters inshore of points 20-28 listed in Table 2.1.8 of Regulatory Amendment 16, approximately the

Georgia/South Carolina border, to approximately Daytona Beach, Florida. Relative to the preferred alternative, this alternative would result in higher overall revenue increases but would provide much reduced protection to right whales from entanglement with pot buoy lines.

The eleventh alternative would apply the black sea bass pot closure from approximately Cape Canaveral, Florida, to Cape Hatteras, North Carolina, annually from November 1 through April 30. Relative to the preferred alternative, this alternative would result in higher overall revenue increases but would provide slightly reduced protection to right whales from entanglement with pot buoy lines.

Four alternatives, including the preferred alternative, were considered in addition to the existing ALWTRP buoy line/weak link gear requirements and buoy line rope marking for black sea bass pots in the South Atlantic. The first alternative, the no action alternative, would not impose any additional cost on fishermen when fishing for black sea bass using pots but it would not meet the need for the action. The second alternative, with two sub-alternatives, would impose requirements in addition to those required under the current ALWTRP for buoy lines from November 1 through April 30 in Federal waters in the South Atlantic. The first sub-alternative would require that the breaking strength for buoy lines not exceed 2,200 lb (997 kg) and the

second sub-alternative would require that the breaking strength for buoy lines not exceed 1,200 lb (544 kg). The first sub-alternative is currently required under the ALWTRP in Federal waters off South Carolina, Georgia, and Florida, and would affect only about 17 pot endorsement holders in North Carolina. The estimated cost to each of these 17 fishermen is a maximum of \$716. The second sub-alternative would impose the same cost per fisherman of \$716 but would affect all 32 pot endorsement holders. The third alternative would require that the breaking strength of the weak links of the buoy lines must not exceed 400 lb (181 kg) for black sea bass pots in the South Atlantic EEZ. This alternative is a decrease from the current requirement of 600 lb (272 kg) breaking strength of the weak links under the ALWTRP, and is estimated to cost each of the 32 pot endorsement holders \$65. Relative to the preferred alternative, all these alternatives, except the no action alternative, would impose higher costs upon fishermen using black sea bass pots.

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). NMFS is proposing to revise the collection-of-information requirement under OMB Control Number 0648-0358. NMFS estimates the proposed requirement for sea bass pot gear marking would result in an additional annual cost of up to \$90 per sea bass pot endorsement holder and require up

to an additional 3.5 hours per response per year. Based upon feedback from fishermen, the cost and time burden for the proposed marking requirement may be slightly lower in subsequent years depending on the marking method used. However, NMFS estimates the requirement to endorsement holders would result in the same for cost and time burden for each subsequent year, because different materials used to mark sea bass pot gear are available and the longevity of the markings vary depending on factors such as the length of the fishing season and how often the gear is used. This estimate of the public reporting burden includes the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection-of-information. NMFS will submit this revision request to OMB for approval.

NMFS seeks public comment regarding:

- Whether this proposed collection-of-information is necessary for the proper performance of the functions of the agency, including whether the gear marking will have practical utility;
- The accuracy of the burden estimate;
- The instructions for how to mark the sea bass pot gear; and
- Ways to minimize the burden of the collection-of-information, including through the use of automated collection techniques or other forms of information technology.

Send comments regarding the burden estimate or any other aspect of the collection-of-information requirement, including suggestions for reducing the burden, to NMFS or to OMB (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the PRA, unless that collection-of-information displays a currently valid OMB control number. All currently approved collections of information may be viewed at:

http://www.cio.noaa.gov/services_programs/prasubs.html.

List of Subjects in 50 CFR Part 622

Annual Catch Limits, Black Sea Bass, Fisheries, Fishing, South Atlantic.

Dated: August 3, 2016

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 622.183, revise paragraph (b) (6) to read as follows:

§ 622.183 Area and seasonal closures.

* * * * *

(b) * * *

(6) *Seasonal closure of the commercial black sea bass pot component of the snapper-grouper fishery.* The closed area is that area and time period described in (b) (6) (i) and (b) (6) (ii) of this section, respectively. During the applicable closure, no person may harvest or possess black sea bass in or from the closed area within the South Atlantic EEZ either with sea bass pots or from a vessel with sea bass pots on board, except that a vessel with a valid commercial permit for snapper-grouper with a sea bass pot endorsement that is in transit and with black sea bass pot gear appropriately stowed as described in paragraph (b) (6) (iii) of this section may possess black sea

bass. In addition, sea bass pots must be removed from the water in the applicable closed area within the South Atlantic EEZ before the applicable time period, and may not be on board a vessel in the closed area within the South Atlantic EEZ during the applicable closure, except for such sea bass pot gear appropriately stowed on board a vessel in transit through the closed area. See paragraph (b) (6) (iii) of this section for black sea bass pot transit and gear stowage requirements through the closed areas.

(i) From November 1 through November 30 and from April 1 through April 30, no person may harvest or possess black sea bass in or from the closed area within the South Atlantic EEZ either with sea bass pots or from a vessel with sea bass pots on board in the South Atlantic EEZ inshore of the rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
1	35°15'	State/EEZ boundary
2	35°15'	75°09'
3	35°06'	75°22'
4	35°06'	75°39'
5	35°01'	75°47'

6	34°54'	75°46'
7	34°52'	76°04'
8	34°33'	76°22'
9	34°23'	76°18'
10	34°21'	76°27'
11	34°25'	76°51'
12	34°09'	77°19'
13	33°44'	77°38'
14	33°25'	77°27'
15	33°22'	77°40'
16	33°28'	77°41'
17	33°32'	77°53'
18	33°22'	78°26'
19	33°06'	78°31'
20	33°05'	78°40'
21	33°01'	78°43'

22	32°56'	78°57'
23	32°44'	79°04'
24	32°42'	79°13'
25	32°34'	79°23'
26	32°25'	79°25'
27	32°23'	79°37'
28	31°53'	80°09'
29	31°31'	80°33'
30	30°43'	80°49'
31	30°30'	81°01'
32	29°45'	81°01'
33	29°31'	80°58'
34	29°13'	80°52'
35	29°13'	State/EEZ boundary

(ii) From December 1 through March 31, no person may harvest or possess black sea bass in or from the closed area within the South

Atlantic EEZ either with sea bass pots or from a vessel with sea bass pots on board in the South Atlantic EEZ inshore of the rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
1	35°15'	State/EEZ boundary
2	35°15'	75°08'
3	34°58'	75°41'
4	34°49'	75°50'
5	34°47'	76°05'
6	34°31'	76°18'
7	34°20'	76°13'
8	34°12'	77°00'
9	33°43'	77°30'
10	33°21'	77°21'
11	33°18'	77°41'
12	33°22'	77°56'
13	33°12'	78°20'

14	33°05'	78°22'
15	33°01'	78°38'
16	32°40'	79°01'
17	32°36'	79°18'
18	32°19'	79°22'
19	32°16'	79°37'
20	32°03'	79°48'
21	31°39'	80°27'
22	30°58'	80°47'
23	30°13'	81°01'
24	29°32'	80°39'
25	29°22'	80°44'
26	28°50'	80°22'
27	28°21'	80°18'
28	28°21'	State/EEZ boundary

(iii) For the purpose of paragraph (b)(6) of this section,

transit means non-stop progression through the area; fishing gear appropriately stowed means all black sea bass pot gear must be out of the water and on board the deck of the vessel. All buoys must either be disconnected from the gear or stowed within the sea bass pot. Disconnected buoys may remain on deck.

* * * * *

3. In § 622.189, add paragraph (g) to read as follows:

§ 622.189 Restrictions and requirements for sea bass pots.

* * * * *

(g) *Sea bass pot buoy line marking requirement.* In addition to the gear marking requirements specified in 50 CFR 229.32(b), from November 15 through April 15, each year, in the Southeast U.S. Restricted Area North as described in 50 CFR 229.32(f) and from September 1 through May 31, each year in the Offshore Trap/Pot Waters Area and the Southern Nearshore Trap/Pot Waters Area, as described in 50 CFR 229.32(c)(6) and (9), respectively, the buoy line must be marked with a purple color band. The colored band must be clearly visible when the gear is hauled or removed from the water, including if the color of the rope is the same as, or similar, to the colored band. The purple band must be marked directly onto the line and adjacent to the buoy line markings specified in 50 CFR 229.32(b), that is, at the top, middle, and bottom of each buoy line deployed by, or

on board, the vessel. Each of the three purple bands must be a 12-inch (30.5 cm) color mark. In marking or affixing the purple band, the line may be dyed, painted, or marked with thin colored whipping line, thin colored plastic, or heat-shrink tubing, or other material.

[FR Doc. 2016-18998 Filed: 8/10/2016 8:45 am; Publication Date: 8/11/2016]